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COMPLAINT

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**DJ#:**

**Case Name:**

**Court:** CA C.D. Cal.; 9th Cir.

**Notes:** SCANNED/UNASSIGNED. CALIFORNIA RIVER WATCH VS. MADISON  
MATERIALS, INC; WARE DISPOSAL, INC.; JUDITH WARE; JAY WARE

**Double-Sided:**

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**Urgent:**

**Oversize:**

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16 CALIFORNIA RIVER WATCH

17 UNITED STATES DISTRICT COURT  
18 CENTRAL DISTRICT OF CALIFORNIA

19 CALIFORNIA RIVER WATCH, an  
20 IRC Section 501(c)(3), non-profit,  
21 public benefit corporation,

22 Plaintiff,

23 v.

24 MADISON MATERIALS, INC.;  
25 WARE DISPOSAL, INC.; JUDITH  
26 WARE; JAY WARE,

27 Defendants.

Case No.: 8:15-cv-00450

**COMPLAINT FOR DECLARATORY  
AND INJUNCTIVE RELIEF AND  
CIVIL PENALTIES**

(Environmental - Federal Pollution  
Control Act - 33 U.S.C. §§ 1251 to 1387)

28 CALIFORNIA RIVER WATCH ("RIVER WATCH"), an Internal Revenue Code  
Section 501(c)(3) non-profit, public benefit corporation, by and through its counsel,  
hereby alleges:

**I. JURISDICTION AND VENUE**

1. This is a civil suit brought under the citizen suit enforcement provisions of  
the Federal Water Pollution Control Act, 33 U.S.C. § 1251, *et seq.* ("Clean Water Act"  
or "Act"). This Court has subject matter jurisdiction over the parties and the subject

DEPT. OF JUSTICE - ENRD  
ENVIRONMENTAL DIVISION  
15 APR -1 P1:37

1 matter of this action pursuant to Section 505(a)(1)(A) of the Act, 33 U.S.C. §  
2 1365(a)(1)(A), and 28 U.S.C. § 1331 (an action arising under the laws of the United  
3 States). The relief requested is authorized pursuant to 28 U.S.C. §§ 2201-02 (power to  
4 issue declaratory relief in case of actual controversy and further necessary relief based  
5 on such a declaration); 33 U.S.C. §§ 1319(b), 1365(a) (injunctive relief); and 33 U.S.C.  
6 §§ 1319(d), 1365(a) (civil penalties).

7 2. On or about November 25, 2014, RIVER WATCH provided notice of  
8 Defendants' violations of the Act, and of its intention to file suit against Defendants, to  
9 the Administrator of the United States Environmental Protection Agency ("EPA"); the  
10 Administrator of EPA Region IX; the Executive Director of the State Water Resources  
11 Control Board ("State Board"); the Executive Officer of the California Regional Water  
12 Quality Control Board, Santa Ana Region ("Regional Board"); and to Defendants, as  
13 required by the Act, 33 U.S.C. § 1365(b)(1)(A). A true and correct copy of RIVER  
14 WATCH's notice letter is attached as Exhibit A, and incorporated by reference.

15 3. More than sixty days have passed since notice was served on Defendants  
16 and the state and federal agencies. RIVER WATCH is informed and believes, and  
17 thereupon alleges, that neither the EPA nor the State of California has commenced or is  
18 diligently prosecuting a court action to redress the violations alleged in this Complaint.  
19 This action's claim for civil penalties is not barred by any prior administrative penalty  
20 under Section 309(g) of the Act, 33 U.S.C. § 1319(g).

21 4. Venue is proper in the Central District of California pursuant to Section  
22 505(c)(1) of the Act, 33 U.S.C. § 1365(c)(1), because the source of the violations is  
23 located within this judicial district.

## 24 **II. INTRODUCTION**

25 5. This complaint seeks relief for Defendants' discharges of polluted non-  
26 storm water and polluted storm water from the Madison Materials Public Disposal  
27 Facility and Transfer Station located at 1035 E. 4<sup>th</sup> Street in Santa Ana, California  
28 ("Facility"), owned and operated by Defendants, in violation of the Act and National

1 Pollutant Discharge Elimination System ("NPDES") Permit No. CAS000001, State  
 2 Water Resources Control Board Water Quality Order No. 91-13DWQ, as amended by  
 3 Water Quality Order No. 92-12-DWQ and Water Quality Order No. 97-03DWQ  
 4 ("General Permit"). Defendants' violations of the discharge prohibitions, receiving water  
 5 limitations, and treatment technology requirements of the General Permit and the Act are  
 6 ongoing and continuous.

7 6. The failure on the part of persons and facilities such as Defendants and the  
 8 Facility to comply with storm water requirements is recognized as a significant cause of  
 9 water pollution in the Pacific Ocean and other area receiving waters. The general  
 10 consensus among regulatory agencies and water quality specialists is that storm pollution  
 11 amounts to more than half of the total pollution entering the aquatic environment each  
 12 year. In this area of the City of Santa Ana, storm water flows completely untreated  
 13 through storm drain systems (principally the Santa Ana Separate Storm Sewer System  
 14 or "MS4") or other channels directly to the waters of the United States.

### 15 **III. PARTIES**

16 7. Plaintiff CALIFORNIA RIVER WATCH is, and at all times relevant to this  
 17 Complaint was, an Internal Revenue Code § 501(c)(3) non-profit, public benefit  
 18 corporation organized under the laws of the State of California, with headquarters  
 19 located in Sebastopol, California and offices in Los Angeles, California. RIVER  
 20 WATCH's southern California mailing address is 7401 Crenshaw Boulevard, #422, Los  
 21 Angeles, California 90043. The specific purpose of RIVER WATCH is to protect,  
 22 enhance and help restore surface and ground waters of California including rivers,  
 23 creeks, streams, wetlands, vernal pools, aquifers and associated environs, biota, flora and  
 24 fauna; and to educate the public concerns environmental issues associated with these  
 25 environs. Members of RIVER WATCH reside in southern California where the Facility  
 26 is located. Said members have interests in the waters and watersheds which are or may  
 27 be adversely affected by Defendants' discharges and violations as alleged herein. Said  
 28 members use the affected waters and watershed areas for recreation, sports, fishing,

1 swimming, hiking, photography, nature walks and/or the like. Furthermore, the relief  
2 sought will redress the injury in fact, likelihood of future injury and interference with the  
3 interests of said members. Continuing commission by Defendants of the acts and  
4 omissions alleged herein will irreparably harm RIVER WATCH and its members, for  
5 which harm they have no plain, speedy or adequate remedy at law.

6 8. RIVER WATCH is informed and believes, and on such information and  
7 belief alleges, that Defendant Madison Materials, Inc. is now, and at all times relevant  
8 to this Complaint was, a corporation registered with the State of California, doing  
9 business as a privately owned and operated scrap recycling operation under Standard  
10 Industrial Code numbers 5093, 5015, 4953 and 42XX, that "processes and recycles"  
11 concrete/asphalt, dirt, wood, treated wood, drywall, carpet, aluminum, paper products,  
12 cardboard, green waste, all metal products, plastics rate 1-7 and unrated plastics,  
13 appliances, roofing materials, electronic waste, universal waste, glass, and wire no. 1 and  
14 no. 2, located and operating at Madison Materials Public Disposal Facility and Transfer  
15 Station, 1035 E. 4<sup>th</sup> Street in the City of Santa Ana, Orange County, California, referred  
16 to in this Complaint as the Facility.

17 9. RIVER WATCH is informed and believes, and on such information and  
18 belief alleges, that Defendant Ware Disposal, Inc. is now, and at all times relevant to this  
19 Complaint was, a corporation registered with the State of California, doing business as  
20 a privately owned and operated scrap recycling operation under Standard Industrial Code  
21 numbers 5093, 5015, 4953 and 42XX, that "processes and recycles" concrete/asphalt,  
22 dirt, wood, treated wood, drywall, carpet, aluminum, paper products, cardboard, green  
23 waste, all metal products, plastics rate 1-7 and unrated plastics, appliances, roofing  
24 materials, electronic waste, universal waste, glass, and wire no. 1 and no. 2, located and  
25 operating at Madison Materials Public Disposal Facility and Transfer Station, 1035 E.  
26 4<sup>th</sup> Street in the City of Santa Ana, Orange County, California, referred to in this  
27 Complaint as the Facility.

28 //

1           10. RIVER WATCH is informed and believes, and on such information and  
2 belief alleges, that Defendant Judith Ware is now, and at all times relevant to this  
3 Complaint was, an individual residing in the State of California, the owner and operator  
4 of the Facility, and the owner of Defendants Madison Materials, Inc. and Ware Disposal,  
5 Inc.

6           11. RIVER WATCH is informed and believes, and on such information and  
7 belief alleges, that Defendant Jay Ware is now, and at all times relevant to this Complaint  
8 was, an individual residing in the State of California, having an ownership interest in  
9 Defendant Madison Materials, Inc. and Ware Disposal, Inc., and the operator/General  
10 Manager of the Facility.

#### 11 **IV. STATUTORY BACKGROUND**

12           12. Section 301(a) of the Act, 33 U.S.C. § 1311(a), prohibits the discharge of  
13 any pollutant into waters of the United States, unless such discharge is in compliance  
14 with various enumerated sections of the Act. Among other things, Section 301(a)  
15 prohibits discharges not authorized by, or in violation of, the terms of a NPDES permit  
16 issued pursuant to Section 402 of the Act, 33 U.S.C. § 1342.

17           13. Section 402(p) of the Act establishes a framework for regulating municipal  
18 and industrial storm water discharges under the NPDES program. 33 U.S.C. § 1342(p).  
19 States with approved NPDES permit programs are authorized by Section 402(p) to  
20 regulate industrial storm water discharges through individual permits issued to  
21 dischargers or through the issuance of a single, statewide general permit applicable to  
22 all industrial storm water dischargers. 33 U.S.C. § 1342(p).

23           14. Pursuant to Section 402 of the Act, 33 U.S.C. § 1342, the Administrator of  
24 the U.S. EPA has authorized California's State Water Resources Control Board to issue  
25 NPDES permits including general NPDES permits in California.

26           15. The State Water Resources Control Board elected to issue a statewide  
27 general permit for industrial storm water discharges. The State Water Resources Control  
28 Board issued the General Permit on or about November 19, 1991, modified the General

1 Permit on or about September 17, 1992, and reissued the General Permit on or about  
2 April 17, 1997, pursuant to Section 402(p) of the Clean Water Act, 33 U.S.C. § 1342(p).

3 16. In order to discharge storm water lawfully in California, industrial  
4 dischargers must comply with the terms of the General Permit or have obtained and  
5 complied with an individual NPDES permit. 33 U.S.C. § 1311(a).

6 17. The General Permit contains several prohibitions. Effluent Limitation B(3)  
7 of the General Permit requires dischargers to reduce or prevent pollutants in their storm  
8 water discharges through implementation of the Best Available Technology  
9 Economically Achievable (“BAT”) for toxic and non-conventional pollutants, and the  
10 Best Conventional Pollutant Control Technology (“BCT”) for conventional pollutants.  
11 BAT and BCT include both non-structural and structural measures. General Permit,  
12 Section A(8). Conventional pollutants are total suspended solids, oil and grease, pH,  
13 biochemical oxygen demand, and fecal coliform. 40 C.F.R. § 401.16. All other pollutants  
14 are either toxic or nonconventional. *Id.*; 40 C.F.R. § 401.15.

15 18. Discharge Prohibition A(1) of the General Permit requires that “materials  
16 other than storm water (non-storm water discharges) that discharge either directly or  
17 indirectly to waters of the United States are prohibited. Prohibited non-storm water  
18 discharges must be either eliminated or permitted by a separate NPDES permit.” Special  
19 Condition D(1)(a) of the General Permit authorizes the following types of non-storm  
20 water discharges: “fire hydrant flushing; potable water sources, including potable water  
21 related to the operation, maintenance, or testing of potable water systems; drinking  
22 fountain water; atmospheric condensates including refrigeration, air conditioning, and  
23 compressor condensate; irrigation drainage; landscape watering; springs; ground water;  
24 foundation or footing drainage; and sea water infiltration where the sea waters are  
25 discharged back into the sea water source.” Such authorized non-storm water discharges  
26 must also meet a number of conditions including, among others, that such discharges “do  
27 not contain significant quantities of pollutants” and that “the non-storm water discharges  
28 are reported and described annually as part of the annual report.” Special Conditions

1 D(1)(b)(iv), (vi). Water discharged from the Facility is not an authorized non-storm  
2 water discharge.

3 19. Discharge Prohibition A(2) of the General Permit prohibits storm water  
4 discharges and authorized non-storm water discharges that cause or threaten to cause  
5 pollution, contamination, or nuisance.

6 20. Receiving Water Limitation C(1) of the General Permit prohibits storm  
7 water discharges to any surface water or groundwater that adversely impact human health  
8 or the environment.

9 21. Receiving Water Limitation C(2) of the General Permit prohibits storm  
10 water discharges that cause or contribute to an exceedance of any applicable water  
11 quality standards contained in a Statewide Water Quality Control Plan or the applicable  
12 Regional Water Quality Control Board's Basin Plan.

13 22. The General Permit does not provide for any mixing zones by dischargers.  
14 The General Permit does not provide for any dilution credits to be applied by  
15 dischargers. As a result, compliance with Receiving Water Limitation C(2) is measured  
16 at a discharger's storm water monitoring location.

17 23. The General Permit requires that facility operators "investigate the facility  
18 to identify all non-storm water discharges and their sources. As part of this  
19 investigation, all drains (inlets and outlets) shall be evaluated to identify whether they  
20 connect to the storm drain system. All non-storm water discharges shall be described.  
21 This shall include the source, quantity, frequency, and characteristics of the non-storm  
22 water discharges and associated drainage area." Section A(6)(a)(v). The General Permit  
23 authorizes certain non-storm water discharges providing that the non-storm water  
24 discharges are in compliance with Regional Water Quality Control Board requirements;  
25 that the non-storm water discharges are in compliance with local agency ordinances  
26 and/or requirements; that best management practices ("BMPs") are included in the Storm  
27 Water Pollution Prevention Plan ("SWPPP") to (1) prevent or reduce the contact of non-  
28 storm water discharges with significant materials or equipment and (2) minimize, to the



1 extent practicable, the flow or volume of non-storm water discharges; that the non-storm  
 2 water discharges do not contain significant quantities of pollutants; and that the  
 3 monitoring program includes quarterly visual observations of each non-storm water  
 4 discharge and its sources to ensure that BMPs are being implemented and are effective.  
 5 Special Conditions D(1)(b)(i)-(v). Section B(3) of the General Permit requires  
 6 dischargers to conduct visual observations of all drainage areas for the presence of non-  
 7 storm water discharges, to observe the non-storm water discharges, and maintain records  
 8 of such observations.

9 24. The Regional Board has established beneficial uses of water in the Santa  
 10 Ana Region in its Water Quality Control Plan, or "Basin Plan" that are being impaired  
 11 by Defendants' activities as detailed and alleged in this Complaint. See  
 12 [http://www.waterboards.ca.gov/santaana/water\\_issues/programs/basin\\_plan./docs/chapter3.pdf](http://www.waterboards.ca.gov/santaana/water_issues/programs/basin_plan./docs/chapter3.pdf).  
 13

14 25. Section 505(a)(1) and Section 505(f) of the Clean Water Act provide for  
 15 citizen enforcement actions against any "person," including individuals, corporations,  
 16 or partnerships, for violations of NPDES permit requirements. 33 U.S.C. §§1365(a)(1)  
 17 and (f), § 1362(5). An action for injunctive relief under the Act is authorized by 33  
 18 U.S.C. § 1365(a). Violators of the Act are also subject to an assessment of civil penalties  
 19 of up to \$37,500 per day per day pursuant to Sections 309(d) and 505 of the Act, 33  
 20 U.S.C. §§ 1319(d), 1365. *See also* 40 C.F.R. §§ 19.1 -19.4.

## 21 **V. STATEMENT OF FACTS**

22 26. Defendants own and operate the Facility. On information and belief,  
 23 RIVER WATCH alleges that hazardous and non-hazardous construction and debris  
 24 waste are disposed of at the Facility, that the Facility's operations fall within SIC Codes  
 25 5093, 1429, and 4953, and that the operations at the Facility are conducted in areas of  
 26 the Facility that are both outdoors and indoors.

27 27. On information and belief, RIVER WATCH alleges that unpermitted non-  
 28 storm water from the Facility flows off the site into the Santa Ana MS4 which is

1 ultimately discharged to the Pacific Ocean, a water of the United States.

2 28. On information and belief, RIVER WATCH alleges that the industrial  
3 activities at the Facility include the processing and recycling of concrete/asphalt, dirt,  
4 wood, treated wood, drywall, carpet, aluminum, paper products, cardboard, green waste,  
5 all metal products, plastics rate 1-7 and unrated plastics, appliances, roofing materials,  
6 electronic waste, universal waste, glass, and wire no. 1 and no. 2. Materials handled at  
7 the Facility include, but are not limited to, hazardous and non-hazardous construction  
8 and debris waste.

9 29. On information and belief, RIVER WATCH alleges that the Defendants  
10 filed a Notice of Intent ("NOI") agreeing to comply with the terms and conditions of the  
11 General Permit. The State Water Resources Control Board approved the NOI on or about  
12 September 3, 2013, and the Facility was assigned Waste Discharger Identification  
13 ("WDID") number 8 30I024439.

14 30. On information and belief, RIVER WATCH alleges that the Defendants  
15 submitted the 2013-2014 Annual Report ("Annual Report"), as required by the General  
16 Permit, on or about July 12, 2014. RIVER WATCH further alleges that the Annual  
17 Report identifies laboratory analysis of storm water discharging from the Facility (from  
18 a single storm water event rather than the mandatory two storm water events required by  
19 the General Permit). RIVER WATCH further alleges that the laboratory analysis of the  
20 discharge from the November 21, 2013 storm water event identifies exceedances above  
21 EPA "Benchmarks" for the following pollutants:

22 Discharge Location – "Santa Ana #1"

23 Aluminum – 42 mg/L

24 Copper – 0.6 mg/L

25 Iron – 140 mg/L

26 Lead – 0.8 mg/L

27 Zinc – 3.5 mg/L

28 COD – no sample results

1 TOC – 184 mg/L

2 TSS – 2400 mg/L

3 Specific Conductance – no sample results

4 Discharge Location – “Santa Ana #2”

5 Aluminum – 6.1 mg/L

6 Iron - 6 mg/L

7 Zinc – 0.52 mg/L

8 COD – no sample results

9 TSS – 0.45 mg/L

10 Specific Conductance – no sample results

11 On information and belief, RIVER WATCH states that the EPA “Benchmarks” for  
12 these listed pollutants are: TSS 100 mg/L; Aluminum 0.75mg/L; Iron 1.0 mg/L; Lead  
13 0.0816 mg/L; Zinc 0.117 mg/L; Copper 0.0636 mg/L; Total Oil & Grease 15 mg/L; COD  
14 120 mg/L; and TOC 100 mg/L.

15 31. On information and belief, RIVER WATCH alleges that storm water flows  
16 easily over the surface of the Facility, collecting zinc, copper, aluminum, lead, iron, and  
17 other pollutants as it flows off the Facility site and into the Santa Ana MS4.

18 32. On information and belief, RIVER WATCH alleges that BAT/BCT for any  
19 storm water discharges from the Facility would be the elimination of those discharges.

20 33. On information and belief, RIVER WATCH alleges that since at least  
21 September 3, 2013, Defendants have failed to implement BAT and BCT at the Facility  
22 for their discharges from the Facility. Section B(3) of the General Permit requires that  
23 Defendants implement BAT for toxic and non-conventional pollutants and BCT for  
24 conventional pollutants by no later than October 1, 1992. Recycling operations began  
25 at the Facility no later than September 3, 2012. As of the date of this Complaint,  
26 Defendants have failed to implement BAT and BCT. RIVER WATCH further alleges  
27 that Defendants have failed to prepare, implement, review and update an adequate  
28 SWPPP identifying effective BMPs that would ensure the elimination of the pollutants

1 identified in Paragraph of 30 of this Complaint contained in the Facility's non-authorized  
2 storm water discharges.

3 34. Information available to RIVER WATCH indicates that Defendants have  
4 not fulfilled the requirements set forth in the General Permit for discharges from the  
5 Facility due to the continued discharge of non-storm water and contaminated storm  
6 water. RIVER WATCH is informed and believes, and thereupon alleges, that failure by  
7 the Defendants to comply fully with all the requirements of the General Permit  
8 contradicts the "Certification" in the 2013-2014 Annual Report that the Facility is in  
9 compliance with the General Permit. RIVER WATCH is informed and believes, and  
10 thereupon alleges, that all of the violations alleged in this Complaint are ongoing and  
11 continuing.

12 **VI. CLAIMS FOR RELIEF**

13 **FIRST CAUSE OF ACTION**

14 **Discharges of Non-storm Water in Violation of Permit Conditions and the Act**  
15 **(Violations of 33 U.S.C. §§ 1311, 1342)**

16 35. RIVER WATCH re-alleges and incorporates all of the preceding paragraphs  
17 as if fully set forth herein.

18 36. Discharge Prohibition A(1) of the General Permit prohibits non-storm water  
19 discharges that discharge either directly or indirectly to waters of the United States. It  
20 requires either the elimination of those non-storm water discharges or requires that a  
21 discharger obtain a separate NPDES permit for the discharges.

22 37. Discharges from the Facility are not a type of authorized non-storm water  
23 discharge authorized by Special Condition D(1) of the General Permit.

24 38. RIVER WATCH is informed and believes, and thereupon alleges, that since  
25 at least September 3, 2013, when Defendants were assigned WDID number 8 30I024439  
26 by the State Water Resources Control Board, Defendants have been discharging non-  
27 storm water from the Facility in violation of the Discharge Prohibition A(1) of the  
28 General Permit. Said non-storm water discharges enter the Santa Ana MS4 and are

1 discharged to the Pacific Ocean.

2 39. Every day since at least September 3, 2013, that Defendants have discharged  
3 and continue to discharge non-storm water from the Facility in violation of the General  
4 Permit is a separate and distinct violation of Section 301(a) of the Act, 33 U.S.C. §  
5 1311(a). These violations are ongoing and continuous.

6 **SECOND CAUSE OF ACTION**

7 **Failure to Implement the Best Available and Best Conventional Treatment**  
8 **Technologies**  
9 **(Violations of 33 U.S.C. §§ 1311, 1342)**

10 40. Plaintiff re-alleges and incorporates all of the preceding paragraphs as if  
11 fully set forth herein.

12 41. Effluent Limitation B(3) of the General Permit require dischargers to reduce  
13 or prevent pollutants in their storm water discharges through implementation of BAT for  
14 toxic and non-conventional pollutants and BCT for conventional pollutants. Defendants  
15 have failed in their SWPPP to implement BAT and BCT at the Facility for the storm  
16 water discharges from the Facility to the Santa Ana MS4.

17 42. Each day since September 3, 2013, that Defendants have failed to develop  
18 and implement BAT and BCT in violation of the General Permit is a separate and distinct  
19 violation of the General Permit and Section 301(a) of the Act, 33 U.S.C. § 1311(a).

20 43. Defendants have been in violation of the BAT/BCT and the General  
21 Permit's SWPPP requirements every day since September 3, 2013. Defendants continue  
22 to be in violation of the BAT/BCT and the General Permit's SWPPP requirements each  
23 day that they fail to develop and fully implement BAT/BCT for discharges from the  
24 Facility.

25 **VII. RELIEF REQUESTED**

26 Wherefore, RIVER WATCH respectfully requests that this Court grant the  
27 following relief:

28 //

- 1 a. Declare Defendants to have violated and to be in violation of the Act as alleged
- 2 herein;
- 3 b. Enjoin Defendants from discharging non-storm water and polluted storm water
- 4 from the Facility unless authorized by the General Permit, including but not
- 5 limited to ceasing deliveries to the Facility and removing all pollution sources
- 6 pending compliance with the General Permit;
- 7 c. Enjoin Defendants from further violating the substantive and procedural
- 8 requirements of the Permit;
- 9 d. Order Defendants to provide RIVER WATCH with reports documenting the
- 10 elimination of non-storm water discharges from the Facility;
- 11 e. Order Defendants to pay civil penalties of \$37,500 per day for each violation of
- 12 the Act pursuant to Sections 309(d) and 505(a) of the Act, 33 U.S.C. §§ 1319(d),
- 13 1365(a) and 40 C.F.R. §§ 19.1 -19.4;
- 14 f. Order Defendants to take appropriate actions to restore the quality of waters
- 15 impaired or adversely affected by their activities;
- 16 g. Award RIVER WATCH's costs (including reasonable investigative, attorney,
- 17 witness, compliance oversight, and consultant fees) as authorized by the Act, 33
- 18 U.S.C. § 1365(d); and,
- 19 h. Award any such other and further relief as this Court may deem appropriate.

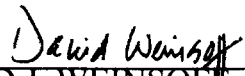
20 DATED: March 19, 2015

Respectfully submitted,

LAW OFFICE OF JACK SILVER

  
\_\_\_\_\_  
JACK SILVER

LAW OFFICE OF DAVID J. WEINSOFF

  
\_\_\_\_\_  
DAVID J. WEINSOFF

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CALIFORNIA RIVER WATCH

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***Via Certified Mailing – Return Receipt***

November 25, 2014

Judith Ware, Owner/Operator  
Judith Ware, Registered Agent for Service  
Jay Ware, General Manager  
Madison Materials, Inc.  
1035 E. 4<sup>th</sup> Street  
Santa Ana, CA 92701

Judith Ware, Owner/Operator  
Judith Ware, Registered Agent for Service  
Jay Ware, General Manager  
Ware Disposal, Inc.  
1035 E. 4<sup>th</sup> Street  
Santa Ana, CA 92701

**Re: Notice of Violations and Intent to File Suit Under the Federal Water  
Pollution Control Act (Clean Water Act)**

Dear Owners, Operators and Site Managers:

**NOTICE**

This Notice is provided on behalf of California River Watch ("River Watch") in regard to violations of the Clean Water Act ("CWA" or "Act") 33 U.S.C. § 1251 *et seq.*, that River Watch believes are occurring at the Madison Materials Public Disposal Facility and Transfer Station ("Madison Facility") located at 1035 E. 4<sup>th</sup> Street in Santa Ana, California. Notice is being sent to you as the responsible owners, operators, and managers of the Madison Facility and real property. This Notice addresses the violations of the CWA, including violation of the terms of the General California Industrial Storm Water Permit, and the unlawful discharge of pollutants from the Madison Facility into the Santa Ana Separate Storm Sewer System ("MS4"), which discharges to the Pacific Ocean.

CWA § 505(b) requires a citizen to give notice of the intent to file suit sixty (60) days prior to the initiation of a civil action under Section 505(a) of the Act. Notice must be given to the alleged violator, the U.S. Environmental Protection Agency ("EPA"), and the state in which the violations occur.

As required by the CWA, this Notice provides notice of the violations that have occurred, and continue to occur at the Madison Facility. Consequently, Judith Ware, Jay Ware, Madison Materials, Inc. and Ware Disposal Inc., (collectively, the "Discharger") is placed on formal notice by River Watch that after the expiration of sixty (60) days from the date of this Notice, River Watch will be entitled to bring suit in the United States District Court against the Discharger for continuing violations of an effluent standard or limitation, National Pollutant Discharge Elimination System ("NPDES") permit condition or requirement, or Federal or State Order issued under the CWA (in particular, but not limited to, CWA § 301(a), § 402(p), and § 505(a)(1), as well as the failure to comply with requirements set forth in the Code of Federal Regulations and the Santa Ana Regional Water Quality Control Board ("RWQCB") Water Quality Control Plan or "Basin Plan."

The CWA requires that any Notice regarding an alleged violation of an effluent standard or limitation or of an order with respect thereto shall include sufficient information to permit the recipient to identify the following:

1. *The specific standard, limitation, or order alleged to have been violated.*

To comply with this requirement, River Watch notices the Discharger of ongoing violations of the substantive and procedural requirements of CWA § 402(p) and violations of NPDES Permit No. CAS000001, State Water Resources Control Board, Order No. 92-12-DWQ as amended by Order No. 97-03-DWQ (the "General Permit") relating to the recycling services at the Madison Facility.

The Discharger filed a Notice of Intent ("NOI") agreeing to comply with the terms and conditions of the General Permit. The State Water Resources Control Board approved the NOI on or about September 3, 2013, and the Discharger was assigned Waste Dischargers Identification ("WDID") number 8 30I024439. River Watch contends that in the operation of the Madison Facility, the Discharger has failed and is failing to comply with the terms and conditions of the General Permit requiring the preparation, implementation, review and update of an adequate Storm Water Pollution Prevention Plan ("SWPPP"), the elimination of all non-authorized storm water discharges, and the development and implementation of an adequate monitoring and reporting program.

Compliance with the monitoring and reporting program is central to the effectiveness of the General Permit program. The Discharger, however, has failed and is failing to comply with the following General Permit requirements as detailed in the Annual Reports submitted in reporting years 2013-2014:<sup>1</sup>

- a. Sampling and Analysis Results Were Incorrectly Provided in the 2013-2014 Annual Report

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<sup>1</sup> These violations are in addition to those identified by the Orange County Solid Waste Local Enforcement Agency in its September 26, 2014 "Five-Year Permit Review for Madison Materials Facility, SWIS No. 30-AB-0386," incorporated herein by reference.



The Annual Report form, in the Section titled *Specific Information*, "Monitoring and Reporting Program," E. Sampling and Analysis Results, identifies the following violations:

Subparagraph 1. specifically questions "How many storm events did you sample?" Under Section B.5 of the General Permit, two (2) storm water samples are required. The Discharger, which concedes in Section D.1 of the Annual Report Form that it is not "exempt" from collecting and analyzing samples from two storm events, provides sampling results from only one storm water event in the Annual Reporting Permit year 2013-2014.

The Discharger's "explanation" for its failure to comply with the mandated requirement to sample and provide analysis from two storm events per year, in conflict with evidence of rain events during the July 1, 2013 – June 30, 2014 period, is that "[t]here was only one storm event this wet season that produced enough discharge for a sample."

b. SWPPP and Monitoring Program Requirements Were Not Properly Prepared and Implemented in the 2013-2014 Annual Reporting Year

The Annual Report form, in the Section titled *Specific Information*, "Annual Comprehensive Site Compliance Evaluation (ACSCE)," H. ACSCE Checklist, Subparagraph 2, asks "Have you reviewed your SWPPP to assure that its BMPs address existing potential pollutant sources and industrial activities areas?" Assuming the Discharger has prepared a SWPPP, it fails to ensure that the BMPs address the elimination of the pollutant discharges identified in the Discharger's Laboratory Analyses as alleged in paragraph c. below.

c. Noncompliance with General Permit Storm Water Controls in the 2013-2014 Annual Reporting Year

The Annual Report form, in the Section titled *Specific Information*, "Annual Comprehensive Site Compliance Evaluation (ACSCE)," I. ACSCE Evaluation Report, requires "[t]he facility operator ... to provide an evaluation report that includes ... any incidents of non-compliance and the corrective actions taken." The Discharger allegedly failed and is failing to eliminate the reported ongoing discharges from the Madison Facility that exceed the EPA "Benchmarks" for the following pollutants:

- November 21, 2013 Sample <sup>2</sup>

Discharge Location – "Santa Ana #1"

Aluminum – 42 mg/L.

Copper – 0.6 mg/L

<sup>2</sup> EPA "Benchmarks" for the listed pollutants – Total Suspended Solids 100 mg/L; Aluminum 0.75mg/L; Iron 1.0 mg/L; Lead 0.0816 mg/L; Zinc 0.117 mg/L; Copper 0.0636 mg/L; Total Oil & Grease 15 mg/L; COD 120 mg/L; and TOC 100 mg/L. Note that the sampling results are those identified in the Orange Coast Analytical, Inc. "Laboratory Report Form" and not Form I in the Discharger's Annual Report, which incorrectly lists sampling results in "mg/L" without proper conversion from the laboratory's sampling reported as "µg/L."

Iron – 140 mg/L  
Lead – 0.8 mg/L  
Zinc – 3.5 mg/L  
COD – no sample results  
TOC – 184 mg/L  
TSS – 2400 mg/L  
Specific Conductance – no sample results

Discharge Location – “Santa Ana #2”

Aluminum – 6.1 mg/L  
Iron – 6 mg/L  
Zinc – 0.52 mg/L  
COD – no sample results  
TSS – 0.45 mg/L  
Specific Conductance – no sample results

d. Certification of Compliance With General Permit for 2008-2009 through 2012-2013  
Annual Reporting Years

The Annual Report form, in the Section titled *Specific Information*, “Annual Comprehensive Site Compliance Evaluation (ACSCE),” I. ACSCE Certification requires facilities covered under the General Permit to state “[b]ased on your ACSCE, do you certify compliance with the Industrial Activities Storm Water General Permit?” The alleged failures to fully and accurately ensure compliance with the requirements of the General Permit as detailed above contradicts both the ACSME Certification” and the signed “Annual Report Certification,” which provides that the signer of the Annual Report attests that the “information submitted is, to the best of my knowledge and belief, true, accurate and complete.”

2. *The activity alleged to constitute a violation.*

The Discharger’s scrap recycling operations (classified under SIC Code 5093, as well as 5015, 4953 and 42) “processes and recycles” concrete/asphalt, dirt, wood, treated wood, drywall, carpet, aluminum, all paper products, cardboard, green waste, all metal products, plastics rate 1-7 and unrated plastics, appliances, roofing materials, electronic waste, universal waste, glass, and wire no. 1 and no. 2 (<http://www.madisonmaterials.com/>; November 21, 2014). The work at the Madison Facility is conducted both indoors and outdoors. Because the real property on which the Madison Facility is located is subject to rain events, and because there is no RWQCB exemption from the collecting and analyzing of the range of pollutants identified above, there can be a discharge of these pollutants, measured at the point the discharge enters into the Santa Ana MS4, which discharges to the Pacific Ocean.

To properly regulate these activities and control the discharge of these types of pollutants, the State Water Resources Control Board requires industrial facilities to obtain and comply with the terms and conditions of an individual NPDES permit or seek coverage under the General Permit (or obtain a proper exemption under the terms of the General Permit from its

requirements). Review of the public record by River Watch reveals that the Discharger obtained coverage under the General Permit for the Madison Facility, but fails to comply with its environmentally protective requirements, in particular the implementation of effective BMPs.

*3. The person or persons responsible for the alleged violation.*

The persons and entities responsible for the alleged violations are Judith Ware, Jay Warc, Madison Materials, Inc. and Ware Disposal, Inc., referred to collectively herein as the Discharger.

*4. The location of the alleged violation.*

The location or locations of the various violations is the permanent address of the Madison Facility at 1035 E. 4<sup>th</sup> Street in Santa Ana, California, including the waters of the Pacific Ocean – a water of the United States.

*5. The date or dates of violation or a reasonable range of dates during which the alleged activity occurred.*

The range of dates covered by this Notice is from November 25, 2009 to November 25, 2014. River Watch will from time to time further update this Notice to include all violations which occur after the range of dates covered by this Notice. Some of the violations are continuous in nature, therefore each day constitutes a violation.

*6. The full name, address, and telephone number of the person giving notice.*

California River Watch is an Internal Revenue Code § 501(c)(3) nonprofit, Public Benefit corporation organized under the laws of the State of California, with headquarters located in Sebastopol, California and offices in Los Angeles, California. River Watch's southern California mailing address is 7401 Crenshaw Boulevard, #422, Los Angeles, California 90043. The specific purpose of River Watch is to protect, enhance and help restore surface and ground waters of California including rivers, creeks, streams, wetlands, vernal pools, aquifers and associated environs, biota, flora and fauna, and to educate the public concerning environmental issues associated with these environs.

River Watch may be contacted via email: [US@ncriverwatch.org](mailto:US@ncriverwatch.org), or through its attorneys. River Watch has retained legal counsel with respect to the issues set forth in this Notice. All communications should be addressed to:

David Weinsoff, Esq.  
Law Office of David Weinsoff  
138 Ridgeway Avenue  
Fairfax, CA 94930  
Tel. 415-460-9760  
Fax. 707-528-8675  
Email: [ldm28843@sbcglobal.net](mailto:ldm28843@sbcglobal.net)

## STATUTORY BACKGROUND

CWA § 301(a), 33 U.S.C. § 1311(a), prohibits the discharge of any pollutant into waters of the United States unless such discharge is in compliance with various enumerated sections of the Act. Among other things, Section 301(a) prohibits discharges not authorized by, or in violation of, the terms of an individual NPDES permit or a general NPDES permit issued pursuant to CWA § 402(p), 33 U.S.C. § 1342. CWA § 402(p), 33 U.S.C. § 1342(p), establishes a framework for regulating storm water discharges under the NPDES program. States with approved NPDES permitting programs are authorized under this section to regulate storm water discharges through permits issued to dischargers and/or through the issuance of a single, statewide general permit applicable to all storm water dischargers. Pursuant to CWA § 402, the Administrator of the U.S. EPA has authorized California's State Water Resources Control Board to issue NPDES permits including general NPDES permits in California.

The State Water Resources Control Board elected to issue a statewide general permit for industrial discharges, and issued the General Permit on or about November 19, 1991, modified the General Permit on or about September 17, 1992, and reissued the General Permit on or about April 17, 1997, pursuant to CWA § 402(p).

In order to discharge storm water lawfully in California, industrial dischargers must comply with the terms of the General Permit or have obtained an individual NPDES permit and complied with its terms.

The General Permit contains certain absolute prohibitions. Discharge Prohibition Order Section A(1) of the General Permit prohibits the direct or indirect discharge of materials other than storm water ("non-storm water discharges"), which are not otherwise regulated by a NPDES permit, to waters of the United States. Discharge Prohibition Order Section A(2) prohibits storm water discharges and authorized non-storm water discharges that cause or threaten to cause pollution, contamination, or nuisance. Receiving Water Limitation Order Section C(1) prohibits storm water discharges to any surface or groundwater that adversely impact human health or the environment. Receiving Water Limitation Order Section C(2) prohibits storm water discharges that cause or contribute to an exceedance of any applicable water quality standards contained in a Statewide Water Quality Control Plan or the applicable Regional Water Quality Control Board Basin Plan.

In addition to absolute prohibitions, the General Permit contains a variety of substantive and procedural requirements that dischargers must meet. Facilities discharging, or having the potential to discharge, storm water associated with industrial activity that have not obtained an individual NPDES permit must apply for coverage under the General Permit by filing a NOI. The General Permit requires existing dischargers to file NOIs before March 30, 1992.

Dischargers must also develop and implement a SWPPP which must comply with the standards of BAT and BCT. The SWPPP must, among other requirements:

- Identify and evaluate sources of pollutants associated with industrial activities that may affect the quality of storm and non-storm water discharges from the facility, and identify

and implement site-specific BMPs to reduce or prevent pollutants associated with industrial activities in storm water and authorized non-storm water discharges [Permit Section A(2)]. BMPs must implement BAT and BCT [Permit Section B(3)].

- Include a description of individuals and their responsibilities for developing and implementing the SWPPP [Permit Section A(3)]; a site map showing the facility boundaries, storm water drainage areas with flow pattern and nearby water bodies, the location of the storm water collection, conveyance and discharge system, structural control measures, impervious areas, areas of actual and potential pollutant contact, and areas of industrial activity [Permit Section A(4)]; a list of significant materials handled and stored at the site [Permit Section A(5)]; and, a description of potential pollutant sources including industrial processes, material handling and storage areas, dust and particulate generating activities, and a description of significant spills and leaks, a list of all non-storm water discharges and their sources, and a description of locations where soil erosion may occur [Permit Section A(6)].
- Include a narrative assessment of all industrial activities and potential pollutant sources at the facility [Permit Section A(7)]. Include a narrative description of the BMPs to be implemented at the facility for each potential pollutant and its source, and consider both non-structural BMPs (including "Good Housekeeping") and structural BMPs where non-structural BMPs are not effective [Permit Section A(8)].
- Conduct one comprehensive site compliance evaluation by the facility operator in each reporting period (July 1- June 30), with SWPPP revisions made, as appropriate, and implemented within 90 days of the evaluation [Permit Section A(9)].

The General Permit requires dischargers to eliminate all non-storm water discharges to storm water conveyance systems other than those specifically set forth in Special Condition D(1)(a) of the General Permit and meeting each of the conditions set forth in Special Condition D(1)(b).

As part of their monitoring program, dischargers must identify all storm water discharge locations that produce a significant storm water discharge, evaluate the effectiveness of BMPs in reducing pollutant loading, and evaluate whether pollution control measures set out in the SWPPP are adequate and properly implemented. Dischargers must conduct visual observations of these discharge locations for at least one storm per month during the wet season (October through May) and record their findings in their Annual Report [Permit Section B(14)]. Dischargers must also collect and analyze storm water samples from at least two storms per year in compliance with the criteria set forth in Permit Section B(5). Dischargers must also conduct dry season visual observations to identify sources of non-storm water pollution in compliance with Permit Section B(7).

Permit Section B(14) of the General Permit requires dischargers to submit an "Annual Report" by July 1 of each year to the executive officer of the relevant Regional Water Quality Control Board. Permit Section A(9)(d) of the General Permit requires the dischargers to include in the annual report an evaluation of the discharger's storm water controls, including certifying

compliance with the General Permit. *See also* Permit Sections C(9), C(10) and B(14).

The EPA has established Parameter Benchmark Values ("EPA Benchmarks") as guidelines for determining whether a facility discharging storm water has implemented the requisite BAT and BCT. (65 Fed. Reg. 64746, 64767 (Oct. 30, 2000)). California Toxics Rule ("CTR") limitations are also applicable to all non storm water and storm water discharges. (40 C.F.R. part 131).

The RWQCB has established applicable water quality standards. This Basin Plan includes a narrative toxicity standard and a narrative oil and grease standard. The Basin Plan provides that "[w]aters shall not contain suspended material in concentrations that cause nuisance or adversely affect beneficial uses." The Basin Plan establishes limits on metals, solvents, pesticides and other hydrocarbons.

### **VIOLATIONS**

River Watch contends that between November 25, 2009 and November 25, 2014 the Discharger violated the CWA, the Basin Plan and the Code of Federal Regulations by discharging pollutants from the Madison Facility to waters of the United States without an individual NPDES permit, or in violation of the General Permit.

The violations discussed herein are derived from eye witness reports and records publicly available, or records in the possession and control of the Discharger. Furthermore, River Watch contends these violations are continuing.

Finally, River Watch also believes that the Madison Facility is not operated to ensure that storm and non-storm water discharges are properly contained, controlled, and/or monitored. As a result, the Discharger fails to follow the requirements of the General Permit in its sampling protocols for the Madison Facility by failing to accurately capture "first flush" samples and failing to properly sample from all the outfalls of the Madison Facility.

### **REMEDIAL MEASURES REQUESTED**

River Watch believes that implementation of the following remedial measures are necessary in order to bring the Discharger into compliance with the CWA and reduce the biological impacts from its non-compliance upon public health and the environment surrounding the Madison Facility:

1. Prohibition of the discharges of pollutants including, but not limited to, petroleum hydrocarbons, oil and grease, accumulated particulate matter, BOD, TSS, heavy metals (including aluminum, iron, lead, copper and zinc) from the "refuse systems" operated at the Madison Facility.
2. Compliance with the terms and conditions of the General Permit, and BMPs detailed in the EPA's Industrial Stormwater Fact Sheet Series:

- "Sector N: Scrap Recycling and Waste Recycling Facilities" (EPA Office of Water, EPA-833-F-06-029, December 2006 ([www.epa.gov/npdes/pubs/sector\\_n\\_scraprecycling.pdf](http://www.epa.gov/npdes/pubs/sector_n_scraprecycling.pdf))).
  - "Sector M: Automobile Salvage Yards" (EPA Office of Water, EPA-833-F-06-028, December 2006 ([http://www.epa.gov/npdes/pubs/sector\\_m\\_autosalvage.pdf](http://www.epa.gov/npdes/pubs/sector_m_autosalvage.pdf))).
  - "Sector P: Motor Freight Transportation Facilities, Passenger Transportation Facilities, Petroleum Bulk Oil Stations and Terminals, Rail Transportation Facilities, and United States Postal Service Transportation Facilities" (EPA Office of Water, EPA-833-F-06-031, December 2006 ([http://www.epa.gov/npdes/pubs/sector\\_p\\_transportationfacilities.pdf](http://www.epa.gov/npdes/pubs/sector_p_transportationfacilities.pdf))).
3. Compliance with the storm water sampling, monitoring and reporting requirements of the General Permit.
  4. Sampling of storm water at least four (4) times per year over each of the next five (5) years: at "first flush"; the first significant rain after "first flush"; the first significant rain after April 1; and the second significant rain after April 1.
  5. 100% of the discharge from the Madison Facility must be discharged through discrete conveyances.
  6. Any discharge from the Madison Facility to a water of the United States must be sampled during the four (4) sampling events identified in paragraph #4 above.
  7. Preparation and submittal to the RWQCB of a "Reasonable Potential Analysis" for the Madison Facility and its operations.
  8. Preparation of an updated SWPPP including a monitoring program, with a copy provided to River Watch.

### CONCLUSION

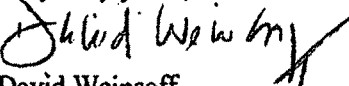
The violations set forth in this Notice effect the health and enjoyment of members of River Watch who reside and recreate in the affected community. Members of River Watch use the affected watershed for recreation, sports, fishing, swimming, hiking, photography, nature walks and the like. Their health, use, and enjoyment of this natural resource is specifically impaired by the Discharger's alleged violations of the CWA as set forth in this Notice.

CWA §§ 505(a)(1) and 505(f) provide for citizen enforcement actions against any "person," including individuals, corporations, or partnerships, for violations of NPDES permit requirements and for un-permitted discharges of pollutants. 33 U.S.C. §§ 1365(a)(1) and (f), § 1362(5). An action for injunctive relief under the CWA is authorized by 33 U.S.C. § 1365(a). Violators of the Act are also subject to an assessment of civil penalties of up to \$37,500 per day/per violation for all violations pursuant to Sections 309(d) and 505 of the Act, 33 U.S.C. §§ 1319(d), 1365. See also 40 C.F.R. §§ 19.1-19.4. River Watch believes this Notice sufficiently

states grounds for filing suit in federal court under the "citizen suit" provisions of CWA to obtain the relief provided for under the law.

The CWA specifically provides a **60-day** "notice period" to promote resolution of disputes. River Watch strongly encourages the Discharger to contact River Watch within **20 days** after receipt of this Notice Letter to: (1) initiate a discussion regarding the allegations detailed in this Notice, and (2) set a date for a site visit. In the absence of productive discussions to resolve this dispute, or receipt of additional information demonstrating that the Discharger is in compliance with the strict terms and conditions of the General Permit, River Watch intends to file a citizen's suit under CWA § 505(a) when the 60-day notice period ends.

Very truly yours,

  
David Weinsoff

DW:lhbm

cc: Administrator  
U.S. Environmental Protection Agency  
Ariel Rios Building  
1200 Pennsylvania Avenue, N. W.  
Washington, D.C. 20460

Regional Administrator  
U.S. Environmental Protection Agency, Region 9  
75 Hawthorne Street  
San Francisco, CA 94105

Executive Director  
State Water Resources Control Board  
P.O. Box 100  
Sacramento, CA 95812

Executive Officer  
Regional Water Quality Control Board  
Santa Ana Region  
3737 Main Street / Suite 500  
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14 Fax. (415) 460-9762

15 Attorneys for Plaintiff  
16 CALIFORNIA RIVER WATCH

17 UNITED STATES DISTRICT COURT

18 CENTRAL DISTRICT OF CALIFORNIA

19 CALIFORNIA RIVER WATCH, an IRC  
20 Section 501(c)(3) non-profit, public  
21 benefit corporation,

22 Plaintiff,

23 v.

24 MADISON MATERIALS, INC.; WARE  
25 DISPOSAL, INC.; JUDITH WARE; JAY  
26 WARE,

27 Defendants.  
28

CASE NO: 8:15-cv-00450

**CERTIFICATE OF SERVICE OF  
COMPLAINT ON UNITED STATES  
ENVIRONMENTAL PROTECTION  
AGENCY AND UNITED STATES  
DEPARTMENT OF JUSTICE**

1 CERTIFICATE OF SERVICE

2 I am employed in the County of Sonoma, State of California. I am over the age of  
3 eighteen years and not a party to the within action. My business address is 100 E Street, Suite  
4 318, Santa Rosa, CA 95404. On the date set forth below, I served the following described  
5 document(s):

6 **COMPLAINT FOR INJUNCTIVE RELIEF, DECLARATORY AND**  
7 **INJUNCTIVE RELIEF AND CIVIL PENALTIES, (Environmental - Federal**  
8 **Pollution Control Act - 33 U.S.C. §§ 1251-1387)**

9 on the following parties by placing a true copy in a sealed envelope, addressed as follows:

10 Citizen Suit Coordinator  
11 U.S. Dept. of Justice  
12 Environmental & Natural Resource Division  
13 Law and Policy Section  
14 P.O. Box 7415  
15 Ben Franklin Station  
16 Washington, DC 20044-7415

17 Administrator  
18 U.S. Environmental Protection Agency  
19 Ariel Rios Building  
20 1200 Pennsylvania Avenue, N.W.  
21 Washington, D.C. 20460

22 ☒ (BY MAIL) I placed each such envelope, with postage thereon fully prepaid for first-class  
23 mail, for collection and mailing at Santa Rosa, California, following ordinary business practices.  
24 I am readily familiar with the practices of Law Office of Jack Silver for processing of  
25 correspondence; said practice being that in the ordinary course of business, correspondence is  
26 deposited with the United States Postal Service the same day as it is placed for processing.

27 ☐ (BY FACSIMILE) I caused the above referenced document(s) to be transmitted by Facsimile  
28 machine (FAX) 707-528-8675 to the number indicated after the address(es) noted above.

I declare under penalty of perjury, under the laws of the State of California, that the  
foregoing is true and correct, and that this declaration was executed on March 23, 2015 at Santa  
Rosa, California.

  
\_\_\_\_\_  
Kayla Brown

Law Office of Jack Silver  
P.O. Box 5469  
Santa Rosa, CA 95402-5469



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**X-RAYED**  
**MAR 31 2015**  
**DOJ MAILROOM**

Citizen Suit Coordinator  
U.S. Dept. of Justice  
Environmental & Natural Resource Division  
Law and Policy Section  
P.O. Box 7415  
Ben Franklin Station  
Washington, DC 20044-7415

